



## U.S. Department of Justice

### *United States Attorney Eastern District of Arkansas*

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CONTACT: Jane W. Duke  
United States Attorney  
501-340-2600

### **FORMER PRESIDENT OF AFFILIATED FOODS SOUTHWEST, INC. PLEADS GUILTY TO BANK FRAUD**

**LITTLE ROCK** – Jane W. Duke, United States Attorney for the Eastern District of Arkansas, and Thomas J. Browne, Special Agent in Charge of the Little Rock Field Office of the Federal Bureau of Investigation, announced today the waiver of indictment and plea of guilty to a felony Information by John Mills, age 59, of Cabot, Arkansas. The Information, which was filed in open court today, charges Mills with one count of aiding and abetting bank fraud by participating in a check kiting scheme, in violation of Title 18, United States Code, Sections 1344 and 2.

From 2004 until March 2009, Mills served as President, Chief Executive Officer, and Chairman of the Board for Affiliated Foods Southwest, Inc. (AFS), a privately-held wholesale food distribution company. Prior to ceasing operations in July 2009, AFS was headquartered in Little Rock and provided products to hundreds of independently-owned grocery stores in Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas. AFS was the parent company over various entities, including Convenience Store Supply Inc. (CSSI) and Supermarket Investors, Inc. (SII). During the relevant time period, AFS had a \$70 million participatory loan with U.S. Bank as the lead lender.

At the plea hearing held before Chief United States District Judge J. Leon Holmes, Mills admitted that AFS began to experience major cash flow problems in mid to late 2008. In order to alleviate AFS' cash flow problems, Mills and AFS Chief Financial Officer Alexander Martinez devised a scheme in which checks would be issued by CSSI and SII to AFS and deposited into AFS' bank account. To effectuate the scheme, an internal accountant of AFS was asked to prepare a daily cash needs report for AFS showing each day's cash shortfall, which was based on the accountant's review of the anticipated AFS deposit items versus the anticipated AFS clearing items. After reviewing each day's report, Mills and Martinez would discuss the dollar amounts of checks to be drawn on CSSI and SII accounts in order to cover AFS' anticipated cash shortage. The internal accountant was then instructed to contact accountants for SII and CSSI to request them to prepare checks made payable to AFS in the amounts determined. This was done knowing that SII and CSSI did not have sufficient funds in their bank accounts to cover the

requested checks. The requested SII and CSSI checks were prepared, processed, and deposited into AFS' bank account prior to 2 p.m. each day so that AFS could obtain same day credit for the funds. On a daily basis, U.S. Bank withdrew the funds deposited into AFS' account and used those funds to reduce the outstanding balance on AFS' line of credit. By using the kited checks to artificially reduce its outstanding line of credit balance, AFS had sufficient funds available on its line of credit to cover the checks clearing each day.

Mills acknowledged that on an almost daily basis from September 29, 2008 until February 27, 2009, checks were kited from CSSI and SII and deposited into AFS' account. The check kiting scheme, which was discovered by U.S. Bank officials during a routine audit early last year, resulted in the line of credit being frozen by bank officials. The total amount of checks kited during the scheme exceeded \$11.5 million.

Duke stated, "In the wake of our country's economic downturn, we have seen all manner of corporate fraud come to light. Such corporate fraud hampers vital recovery efforts by displacing workers, destroying investor trust, and curtailing consumer confidence." She added, "The Department of Justice will aggressively investigate and prosecute Ponzi schemes, bank fraud, check kiting, and other similar types of financial 'shell games' specifically designed to lull banks, investors, and employees into having a false sense of security."

SAC Browne followed by stating, "When corporate officers commit fraud it has a rippling effect and decreases society's confidence in businesses and overall economic stability. Many Arkansans were affected when Affiliated Foods declared bankruptcy and ultimately ceased operations; both of which were a by-product of the activities engaged in by the perpetrators of this scheme. The FBI will continue to aggressively investigate these and other types of corporate criminal activities."

The statutory penalty for bank fraud is not more than thirty (30) years imprisonment and a fine of up to \$1,000,000. Mills remains free on his own recognizance pending sentencing, which has not yet been set.

The investigation was conducted by the Federal Bureau of Investigation. It is being prosecuted by Assistant United States Attorney Karen Whatley.

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